

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

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Submitted - October 22, 2007

STEPHEN G. CRANE, J.P.
GLORIA GOLDSTEIN
ANITA R. FLORIO
MARK C. DILLON, JJ.

2006-06555

DECISION & ORDER

Paul Micari, respondent, v City of New York,
appellant.

(Index No. 42078/03)

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Stephen J. McGrath and Victoria Scalzo of counsel), for appellant.

Apicella & Schlesinger, New York, N.Y. (Alan C. Kestenbaum of counsel), for respondent.

In an action to recover damages for personal injuries, the defendant appeals from an order of the Supreme Court, Kings County (Solomon, J.), dated June 9, 2006, which granted the plaintiff's motion for summary judgment on the issue of liability.

ORDERED that the order is affirmed, with costs.

The plaintiff made a prima facie showing of his entitlement to judgment as a matter of law (*see Alvarez v Prospect Hosp.*, 68 NY2d 320, 324), and the defendant failed to raise any issue of fact in opposition thereto. Accordingly, the Supreme Court properly granted the plaintiff's motion for summary judgment on the issue of liability.

CRANE, J.P., GOLDSTEIN, FLORIO and DILLON, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

November 27, 2007

MICARI v CITY OF NEW YORK